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COMMISSION ON HUMAN RIGHTS
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Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Australia*, Austria, Belgium*, Bulgaria*, Canada, Chile, Cyprus*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Japan, Latvia*, Lithuania*, Netherlands*, Poland, Portugal*, Romania*, Slovakia*, Slovenia*, Spain, Switzerland* and United Kingdom of Great Britain and Northern Ireland: draft resolution

1998/... Situation of human rights in the Democratic Republic of the Congo

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful that the Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights, as well as to the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Commission resolution 1997/58 of 15 April 1997,

Mindful that the new Government of the Democratic Republic of the Congo has inherited a chaotic situation with the adverse effects of a deteriorating economy, a very high inflation rate and a low investment in health, education and housing after decades of dictatorship,

Conscious that the massive presence of Rwandese refugees in the eastern part of the Democratic Republic of the Congo had created major economic, social and political problems,

1. Welcomes:

(a) The report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1998/58);

(b) The expressed commitment of the Government of the Democratic Republic of the Congo to a process of democratization, leading, through the creation of democratic institutions and the holding of elections, to the creation of a State based on the rule of law and respect for human rights, including representative and accountable government, reflecting the aspirations of the people of the Democratic Republic of the Congo;

(c) The establishment by the Government of the Democratic Republic of the Congo of the Constitutional Commission, inaugurated on 5 November 1997, and looks forward to the presentation of a new constitution for which the Government of the Democratic Republic of the Congo has set out a detailed timetable;

(d) The expressed commitment by the Government of the Democratic Republic of the Congo to reform and restore the efficacy of the judicial system;

(e) The effort undertaken by the new Government to subordinate the armed forces to the effective rule of law;

(f) The convening of a recent interministerial seminar, attended by non-governmental organizations, on the place of human rights in the National

Reconstruction Strategy and its conclusions on strengthening cooperation between the Government and non-governmental organizations;

(g) The Government's willingness to include human rights education in the primary and secondary school curricula;

2. Expresses its concern:

(a) At the human rights situation, particularly in the east of the country where acts of violence continue;

(b) At the continuing violations of human rights and fundamental freedoms, in particular:

(i) At the occurrence of the arbitrary arrest and detention without trial of civilians, including journalists and opposition politicians and human rights defenders;

(ii) At the trial of civilians and the use of the death penalty by military courts in disregard of the provisions of the International Covenant on Civil and Political Rights;

(iii) At the temporary suspension of the activities of political parties, pending the referendum on a new constitution, and the fact that certain opposition figures have been detained or banished from Kinshasa;

(iv) At recent restrictions on the work of non-governmental organizations and, in particular, at the seizure of the report of a human rights organization and its recent dissolution;

(c) At the refusal to allow the Special Rapporteur to visit the Democratic Republic of the Congo in the discharge of his mandate and at the inability of the joint mission set up under Commission resolution 1997/58 to gain access in order to carry out its mandate;

(d) At the large numbers of refugees and displaced persons in the Democratic Republic of the Congo who disappeared between 1994 and 1997 and who have not yet been accounted for and at serious allegations of killings and other human rights abuses in this connection;

3. Calls upon the Government of the Democratic Republic of the Congo:

(a) To fully implement its commitment to the democratization process, respect for human rights and the rule of law;

(b) To continue with its timetable for preparations for the holding of free and fair elections drawing, where appropriate, on assistance from the

international community and to allow the full restoration of political party activity sufficiently in advance of those elections to provide a meaningful choice for the people of the Democratic Republic of the Congo;

(c) To ensure full respect for freedom of opinion and expression, including for all mass media, as well as freedom of association and assembly throughout the territory of the Democratic Republic of the Congo;

(d) To work closely and strengthen further its cooperation with the office of the High Commission for Human Rights in Kinshasa;

(e) To promote human rights awareness, including by strengthening cooperation with civil society including human rights non-governmental organizations;

4. Expresses its serious concern at the circumstances which have obliged the Secretary-General to withdraw the Investigate Team set up under his auspices, including a series of obstacles faced by the Team, the temporary detention of one Team member, the seizure of United Nations documents and allegations of intimidation of witnesses; notes that the Secretary-General's Investigative Team will prepare a report based on its work to date within the Democratic Republic of the Congo and on such other sources as are available to it; requests the Secretary-General to report, with any comments and recommendations he may wish to make, inter alia to the General Assembly and to the Commission at its fifty-fifth session; and demands that the Government of the Democratic Republic of the Congo cooperate fully with the Secretary-General, the United Nations High Commission for Human Rights and the Commission in addressing the allegations in question;

5. Decides:

(a) To extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year, requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session on human rights in the Democratic Republic of the Congo and on the possibilities for the international community to assist with local capacity-building, and also requests the Special Rapporteur to continue to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To request the international community to support the office of the High Commissioner for Human Rights in Kinshasa, in order, in particular:

(i) To strengthen its involvement in programmes of technical cooperation, advisory services and human rights advocacy programmes with the Government of the Democratic Republic of the Congo, including supporting efforts by the Government of the Democratic Republic of the Congo towards strengthening the judicial system;

(ii) To strengthen its support for, continue and expand cooperation with human rights non-governmental organizations in the Democratic Republic of the Congo;

6. Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/... of ... April 1998, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year and requests him to report to the Commission at its fifty-fifth session on the situation of human rights in the Democratic Republic of the Congo and on the possibilities for the international community to assist with local capacity-building, and also requests the Special Rapporteur to keep a gender perspective in mind when seeking and analysing information."